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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13  
14 UNITED STATES OF AMERICA,

No. C 08-2331 JL

15 Plaintiff,

JOINT CASE MANAGEMENT  
STATEMENT

16 v.  
17 104,994 IN UNITED STATES  
18 CURRENCY,

Date: August 13, 2008  
Time: 10:30 am.  
Place: Honorable James Larson, 15<sup>th</sup> Floor

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Defendant.

Pursuant to FRCP 26(f) and Local Rule 16-9, Plaintiff, United States of America and claimant Todd Dunphy (hereinafter "Claimant"), respectfully submit this Joint Case Management Statement.

**1. Jurisdiction and Service**

Plaintiff contends that this Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1335, Title 21, United States Code, Section 881.

The Parties agree that all persons known to have an interest in the defendant property have been served. Claimant has filed a claim.

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1       **2. Facts**

2       This is a forfeiture case. The government commenced this action with the filing of a civil  
3       forfeiture complaint on May 6, 2008. The defendant currency was seized by the Drug  
4       Enforcement Administration on November 7, 2007. In its complaint, the government alleges that  
5       the defendant currency was furnished or intended to be furnished to another person in exchange  
6       for a controlled substance, constitutes proceeds derived from such an exchange, and was used or  
7       intended to be used to facilitate a drug trafficking offense, and it is thus forfeitable under Title  
8       21, United States Code, Section 881(a)(6). Claimant denies that the defendant currency is  
9       subject to forfeiture.

10      **3. Legal Issues**

11      The parties agree that the principal factual and legal issues in dispute are: (1) whether  
12     Claimant can establish that he is an innocent owner of the defendant currency; (2) whether the  
13     government can establish by a preponderance of the evidence that defendant currency is  
14     forfeitable.

17      **4. Motions**

18      The parties contemplate the possibility of filing pre-trial dispositive and non-dispositive  
19     motions. Because of a related criminal case that is currently pending in the District of Hawaii,  
20     United States v. Todd Dunphy, 08-0277, the parties request that this case be stayed to a date no  
21     earlier than December 8, 2008.

23      **5. Amendment of Pleadings**

24      At this time, the parties do not anticipate filing any amended pleadings.

26      **6. Disclosures**

27      This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal  
28     Rule of Civil Procedure 26 (a)(1)(B)(ii).

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1      **7. Discovery**

2            The parties have not engaged in any discovery at this time. Because of a related criminal  
3 case that is currently pending in the District of Hawaii, United States v. Todd Dunphy, 08-0277,  
4 the parties request that this case be stayed to a date no earlier than December 8, 2008.

5      **8. Class Action**

6            This is not a class action.

7      **9. Related Case**

8            The parties are aware of a related criminal case that is currently pending in the District of  
9 Hawaii, United States v. Todd Dunphy, 08-0277.

10     **10. Relief/Damages**

11            The government seeks a judgment of forfeiture of the defendant property. Claimant  
12          seeks return of the defendant property. This is not a damages case.

13     **11. Settlement and ADR**

14            The parties agree that, at this juncture, it is premature to predict the likelihood of  
15 settlement, and ADR would be of more use at a later stage after resolution to the related criminal  
16 case.

17     **12. Consent to Magistrate Judge for All Purposes**

18            The parties consent to the Magistrate Judge in this action.

19     **13. Narrowing of Issues**

20            At this juncture, it is premature to narrow the issues which the parties anticipate will be  
21 narrowed through the discovery process.

22        //

23        //

1      **14. Scheduling**

2      The parties have not engaged in any discovery at this time. Because of a related criminal  
3      case that is currently pending in the District of Hawaii, United States v. Todd Dunphy, 08-0277,  
4      the parties request that this case be stayed to a date no earlier than December 8, 2008.  
5

6      **15. Trial**

7      The parties have demanded a jury trial.

9      Dated: *6 August 2008*

Respectfully submitted,

DAVID M. MICHAEL  
Attorney for Claimant  
TODD DUNPHY

14      Dated: *August 6, 2008*

JOSEPH P. RUSSONIELLO  
United States Attorney

*DA* *OC*  
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Assistant United States Attorney